

Leonard M. Shulman – Bar No. 126349
Rika M. Kido – Bar No. 273780
SHULMAN HODGES & BASTIAN LLP
8105 Irvine Center Drive, Suite 600
Irvine, California 92618
Telephone: (949) 340-3400
Facsimile: (949) 340-3000
E-mail: lshulman@shbllp.com
rkido@shbllp.com

Attorneys for Plaintiff
Lynda T. Bui, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION

In re
NARENDRA D. PATEL and SUNITA N. PATEL,

Debtor(s).

**LYNDA T. BUI, solely in her capacity as
Chapter 7 Trustee of the bankruptcy estate
of Narendra D. Patel and Sunita N. Patel,**

Plaintiff,

v.
**SURENDRA D. PATEL, an individual and
KAMINI S. PATEL, an individual.**

Defendant(s).

Case No. 6:13-bk-26439-MW

Chapter 7

Adv. Case No.

COMPLAINT FOR:

- 1. SALE OF PROPERTY [11 U.S.C. § 363(h)];**
- 2. TURNOVER OF PROPERTY OF THE ESTATE [11 U.S.C. § 542]; and**
- 3. DECLARATORY RELIEF**

Lynda T. Bui, solely in her capacity as the duly appointed, qualified and acting Chapter 7 trustee ("Trustee" or "Plaintiff") for the bankruptcy estate ("Estate") of Narendra D. Patel and Sunita N. Patel ("Debtors"), hereby brings this Complaint and respectfully complains and alleges as follows:

I. STATEMENT OF JURISDICTION AND VENUE

1. This adversary proceeding is filed pursuant to Federal Rule of Bankruptcy Procedure 7001(1) (a proceeding to recover money or property) and Federal Rule of Bankruptcy Procedure 7001(3) (a proceeding to obtain approval under 11 U.S.C. § 363(h) for sale of both the interest of the estate and of a co-owner in property).

2. Plaintiff, as Trustee, has standing to bring this action under 11 U.S.C. §§ 323.

3. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

4. This adversary proceeding arises and is related to the Debtors' bankruptcy case, which was commenced through the filing of a Voluntary Petition for relief under Chapter 7 of the Bankruptcy Code by the Debtors on October 3, 2013 ("Petition Date") in the Central District of California, Riverside Division.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1409, as this adversary proceeding arises under Title 11 or arises under or relates to a case under Title 11 which is pending in this District and does not involve a consumer debt less than \$18,675.00.

6. This action is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) (matters concerning the administration of the estate); (b)(2)(E) (orders to turn over property of the estate); (b)(2)(N) (orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate); and (b)(2)(O) (other proceedings affecting the liquidation of assets of the estate). To the extent any related claims are determined not to be a core proceeding, the Plaintiff consents to an entry of final judgment and orders by the Bankruptcy Court.

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7. To the extent that the Plaintiff asserts claims under 11 U.S.C. § 544, the Plaintiff is informed and believes and based thereon alleges that there exists in this case one or more creditors holding unsecured claims allowable under 11 U.S.C. § 502 or are not allowable under 11 U.S.C. § 502(e), who can avoid the respective transfers as set forth hereinafter under California or other applicable law.

II. PARTIES

8. Plaintiff is the duly appointed, qualified, and acting Chapter 7 trustee for Debtors' Estate, and brings the claims asserted herein in that capacity.

9. Plaintiff is informed and believes and thereon alleges that at all times relevant herein Surendra D. Patel and Kamini S. Patel, husband and wife ("Defendants"), are and were individuals residing in the County of Riverside, State of California.

III. GENERAL ALLEGATIONS

10. On October 3, 2013, the Debtors filed a Voluntary Petition under Chapter 7 of the Bankruptcy Code.

11. Lynda T. Bui is the duly appointed, qualified and acting Chapter 7 trustee in the Debtors' bankruptcy case.

12. The Trustee is informed and believes and thereon alleges that as of November 19, 2002, the Debtors and the Defendants have owned the real property located at 13921 Oaks Avenue, Chino, California 91710, APN 1021-221-20 ("Property") by being on title to the Property as joint tenants.

13. The Debtors did not list the Property on Schedule A of their bankruptcy Schedules.

FIRST CLAIM FOR RELIEF

[Sale of Property by Petition]

11 U.S.C. § 363(h)

14. Plaintiff hereby incorporates by reference paragraphs 1 through 13 and realleges these paragraphs as though set forth in full.

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1 15. Partition in kind of the Property between the Estate and Defendants is
2 impracticable and cannot be made without extreme prejudice to the Debtors' Estate and
3 Defendants.

4 16. A sale solely of the Estate's undivided interest in the Property would realize
5 significantly less for the Estate than a sale of the Property free of the interest of the Defendants.

6 17. The benefit to the Estate of a sale of the Property free of the interest of the
7 Defendants outweigh the detriment, if any, to the Defendants.

8 18. Plaintiff is informed and believes and based thereon alleges that the Property is
9 not used in the production, transmission, or distribution, for sale, of electric energy or of natural
10 or synthetic gas for heat, light or power.

11 19. Any proposed sale of the Property will be conducted pursuant to and in
12 accordance with 11 U.S.C. § 363, Federal Rule of Bankruptcy Procedure 6004, and Local
13 Bankruptcy Rule 9013-1 upon a noticed motion to be filed in the Debtors' bankruptcy case.
14 Pursuant to such a motion, Plaintiff will provide for a distribution to the Defendant, and to the
15 Debtors' Estate, of the net proceeds of the sale, and subject to the prior satisfaction of all valid
16 taxes, liens, charges, interests, or encumbrances on the Property.

17 **SECOND CLAIM FOR RELIEF**

18 **[Turnover of Property of the Estate]**

19 **11 U.S.C. § 542**

20 20. Plaintiff hereby incorporates by reference paragraphs 1 through 13 and realleges
21 these paragraphs as though set forth in full.

22 21. Defendant is in possession of property of the Debtors' Estate, namely a one-half
23 interest in the Property and the proceeds of the sale of the Property.

24 22. Pursuant to 11 U.S.C. § 542, Plaintiff, as Trustee, is entitled to turnover of the
25 property of the Estate, namely a one-half (1/2) interest in the Property.

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THIRD CLAIM FOR RELIEF

[Declaratory Relief]

23. Plaintiff hereby incorporates by reference paragraphs 1 through 13 and realleges these paragraphs as though set forth in full.

24. Plaintiff and Defendants herein have a dispute in which a declaration of their respective rights is necessary. Plaintiff is informed and believes, and thereon alleges, that the said disputes are actual and continuing, and concern the continuing assertion by Defendants that they may assert claims herein, retain the benefits of illegal or wrongful acts of other defendants herein, and/or adopt and ratify the said illegal and wrongful acts, to the damage and prejudice of Plaintiff.

25. Plaintiff is informed and believes and thereon alleges that the Debtors have at least a one-half (1/2) interest in the Property.

26. Based on the foregoing, Plaintiff respectfully requests from this Court a declaration that at least one-half (1/2) of the interest in the Property is property of the Estate pursuant to § 541 of the Bankruptcy Code and that the Property must be turned over to be used and sold by the Trustee pursuant to § 363 of the Bankruptcy Code.

WHEREFORE, the Trustee prays that this Court enter judgment as follows:

1. Approving the sale of both the interest of the Estate and of the Defendants in the Property;

2. For turnover of one-half (1/2) of the Property;

3. Stating a declaration that at least one-half (1/2) of the interest in the Property is property of the Estate pursuant to § 541 of the Bankruptcy Code and that the Property must be turned over to be used and sold by the Trustee pursuant to § 363 of the Bankruptcy Code;

4. Awarding the Trustee the costs of suit incurred herein, including attorneys' fees and costs as provided by applicable case law, statute and/or agreement of the parties; and

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5. For such other and further relief as the Court may deem just and proper under the circumstances of this case.

SHULMAN HODGES & BASTIAN LLP

Dated: November 4, 2014

/s/ Rika M. Kido

Leonard M. Shulman

Rika M. Kido

Attorneys for Lynda T. Bui, Chapter 7 Trustee

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>Leonard M. Shulman – Bar No. 126349 Rika M. Kido – Bar No. 273780 SHULMAN HODGES & BASTIAN LLP 8105 Irvine Center Drive, Suite 600 Irvine, California 92618 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 E-mail: lshulman@shbllp.com; rkido@shbllp.com</p> <p><i>Attorney for Plaintiff</i> Lynda T. Bui, Chapter 7 Trustee</p>	<p>FOR COURT USE ONLY</p>
<p align="center">UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION</p>	
<p>In re: NARENDRA D. PATEL and SUNITA N. PATEL,</p> <p align="right">Debtor(s).</p>	<p>CASE NO.: 6:13-bk-26439-MW</p> <p>CHAPTER: 7</p> <p>ADVERSARY NUMBER:</p>
<p>LYNDA T. BUI, solely in her capacity as Chapter 7 Trustee of the bankruptcy estate of Narendra D. Patel and Sunita N. Patel,</p> <p align="right">Plaintiff(s)</p> <p align="center">Versus</p> <p>SURENDRA D. PATEL, an individual and KAMINI S. PATEL, an individual.</p> <p align="right">Defendant(s)</p>	<p>SUMMONS AND NOTICE OF STATUS CONFERENCE IN ADVERSARY PROCEEDING [LBR 7004-1]</p>

TO THE DEFENDANT: A Complaint has been filed by the Plaintiff against you. If you wish to defend against the Complaint, you must file with the court a written pleading in response to the Complaint. You must also serve a copy of your written response on the party shown in the upper left-hand corner of this page. The deadline to file and serve a written response is _____. If you do not timely file and serve the response, the court may enter a judgment by default against you for the relief demanded in the Complaint.

A status conference in the adversary proceeding commenced by the Complaint has been set for:

<p>Hearing Date: _____</p> <p>Time: _____</p> <p>Courtroom: Video Ctrm 225</p>	<p>Place:</p> <p><input type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012</p> <p><input checked="" type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501</p> <p><input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701</p> <p><input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101</p> <p><input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367</p>
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You must comply with LBR 7016-1, which requires you to file a joint status report and to appear at a status conference. All parties must read and comply with the rule, even if you are representing yourself. You must cooperate with the other parties in the case and file a joint status report with the court and serve it on the appropriate parties at least 14 days before a status conference. A court-approved joint status report form is available on the court's website (LBR form F 7016-1.1) with an attachment for additional parties if necessary (LBR form F 7016-1.1a). If the other parties do not cooperate in filing a joint status report, you still must file with the court a unilateral status report and the accompanying required declaration instead of a joint status report 7 days before the status conference. **The court may fine you or impose other sanctions if you do not file a status report. The court may also fine you or impose other sanctions if you fail to appear at a status conference.**

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

Date of Issuance of Summons and Notice of Status Conference in Adversary Proceeding: _____

By: _____
Deputy Clerk

ADVERSARY PROCEEDING COVER SHEET (Instructions on Page 2)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS LYNDIA T. BUI, solely in her capacity as Chapter 7 Trustee of the bankruptcy estate of Narendra D. Patel and Sunita N. Patel	DEFENDANTS SURENDRA D. PATEL, an individual and KAMINI S. PATEL, an individual	
ATTORNEYS (Firm Name, Address, and Telephone No.) Shulman Hodges & Bastian LLP 8105 Irvine Center Drive, Suite 600, Irvine, CA 92618 T: 949-340-3400; F: 949-340-3000	ATTORNEYS (If Known) Unknown	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Chapter 7 Trustee's Complaint for: 1) Sale of Property [11 U.S.C. Section 363(h)]; 2) Turnover of Property of the Estate [11 U.S.C. Section 542]; and 3) Declaratory Relief		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input checked="" type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input checked="" type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$	
Other Relief Sought		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR NARENDRA D. PATEL and SUNITA N. PATEL		BANKRUPTCY CASE NO. 6:13-bk-26439-MW
DISTRICT IN WHICH CASE IS PENDING Central District of California	DIVISIONAL OFFICE Riverside	NAME OF JUDGE Honorable Mark S. Wallace
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ Rika M. Kido		
DATE 11/4/14	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Rika M. Kido, Esq. Counsel for Lynda T. Bui, Chapter 7 Trustee	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not presented by an attorney, the plaintiff must sign.